

ST 95-38

Tax Type: SALES TAX

Issue: Reasonable Cause on Application of Penalties

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
COUNTY OF COOK

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THE DEPARTMENT OF REVENUE	)		Docket No.
OF THE STATE OF ILLINOIS	)		) IBT #
			) Claim For Credit
v.			)
			) Daniel D. Mangiamele
TAXPAYER,	)		Administrative Law Judge
	)		)
Taxpayer	)		)

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Taxpayer, pro se

**Synopsis:**

This matter comes on for hearing pursuant to the Department of Revenue denial of taxpayer's Claim for Credit in the amount of \$1,489.00 for audit period August 1992 and September 1992. Taxpayer alleges that the claim should be granted based on the fact that he was unable to timely secure an IBT number from the State of Illinois when he changed his business from a corporation to a sole proprietorship. The taxpayer alleges he made numerous attempts to secure his IBT number. At issue is whether the penalty should be abated based on a reasonable cause. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Taxpayer.

**Findings of Fact:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the notice of Department's tentative determination of the Claim for Credit. Dept's Ex. No. 1.
2. Taxpayer made fifty requests to the Department of Revenue for an IBT number and the necessary ST-1's to file proper returns when he changed his business from a corporation to a sole proprietorship. Tr. pp. 5-7.

3. The Department on February 3, 1994 approved Claim For Credit for the period August 1992 on the basis of reasonable cause. Taxpayer Ex. No. 1.

4. Taxpayer's late filing resulted from not being able to secure his IBT number and necessary forms timely. Tr. 7.

5. Taxpayer while in business always paid his taxes promptly. Tr. pp. 6-7.

**Conclusions of Law:**

Taxpayer argued that his failure to file the returns timely was due to reasonable cause. 35 ILCS 735/3-8 provides that "the penalties imposed under the provisions of this act shall not apply if the taxpayer shows his failure to file a return or pay the tax at the required time was due to reasonable cause". The taxpayer testified when he changed his business over to a sole proprietorship he made over fifty requests to the Department of Revenue for an IBT number and the necessary ST-1's so he could file returns and pay the tax. He further testified that he has always filed timely and paid the taxes when due.

Based on all testimony and evidence presented I find the testimony of the taxpayer to be credible and therefore recommend that the penalties assessed herein be cancelled based on reasonable cause grounds as set forth herein.

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Daniel D. Mangiamele  
Administrative Law Judge